



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,811	07/17/2003	Alistair Edwin May	8054.010	8991
28694	7590	10/02/2006		EXAMINER
NOVAK DRUCE & QUIGG, LLP				SHERMAN, STEPHEN G
1300 EYE STREET NW				
400 EAST TOWER			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			2629	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.	10/620,811	Applicant(s)
Examiner	Art Unit	

Stephen G. Sherman

MAY, ALISTAIR EDWIN

2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. Applicant's reply has overcome the following rejection(s): _____.
 6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. Other: _____.

AMR A. AWAD
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The applicant argues that Junod's hand detector does not operate in the radio frequency domain, and thus does not and cannot sense at least one physical characteristic of the radio channel as claimed. The examiner disagrees. With respect to the argument that the hand detection circuit sends a signal to the RF circuit is incorrect, the examiner points out that even if the hand detection circuit sends a signal first to a microcontroller to cause the device to wake up, the microcontroller would then need to send a signal to the RF circuitry, therefore meaning that indirectly the hand detection circuit sends a signal to the RF circuitry. With respect to the second argument that the hand detection circuit would not communicate with the RF circuit by RF signals, the applicant states that since the device of Junod contains only one antenna that it is simply not feasible that the antenna would be used to both transmit and receive the same signal, however, the applicant's invention includes an embodiment containing only one antenna (see claim 2 and Figure 2) meaning that if this were true then the applicant is admitting that their own invention does not work. With respect to the argument that even if the hand detection circuit of Junod transmits RF signals it doesn't detect a physical characteristic of the radio channel as claimed, the examiner points out that the claim only requires that the sensor detects a physical characteristic of the radio CHANNEL. The claim does not require and RF signals anyways, only that characteristics of a radio channel are detected. The antenna in Junod is used for both transmitting the signals during normal operation and for detection of a hand when in a low power mode. The antenna is used to detect a characteristic, i.e. capacitance, of the same channel used for communication during normal operating mode meaning that the detection unit detects a characteristic of this channel. As mentioned in the final rejection, the examiner understands that there is a difference between the applicant's INVENTION and the teachings of Junod, HOWEVER, the invention as claimed does not distinguish over the reference.. .